REMARKS/ARGUMENTS

Claims 1-39 are pending in the application. The Examiner has rejected claims 1-39. Applicant respectfully requests reconsideration of pending claims 1-39.

The Examiner has stated that Applicant's arguments regarding claims 1-39 fail to comply with 37 C.F.R. § 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentability distinguished them from the references. Applicant respectfully disagrees. The Examiner underlines and italicizes "distinctly and specifically points out the supposed errors in the examiner's action" and "The reply must present arguments pointing out the specific distinctions believed to render the claims...patentable over any applied references" in the Examiner's quotation of 37 CFR 1.111(b). Applicant shall address such concerns with respect to individual claims discussed below.

The Examiner states, "The Applicant's argument that presenting arguments that cite specific features of the claims that were not deemed by the Applicant to be present in the cited portions of the cited reference satisfies the requirements of 37 CFR 1.111(b) is incorrect. The references must be considered as a whole, not within a vacuum or limited to the portions cited by the Examiner." The Examiner cites MPEP 2141.02 as stating "Ascertaining the differences between the prior art and the claims at issue requires interpreting the claim language, and considering both the invention as the prior art references as a whole." When the Examiner cites specific portions of the cited references in making a rejection, and "The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action," as required by 37 CFR 1.111(b), it is natural that Applicant's response would cite specific features of the claims which Applicant deems not to be taught or rendered obvious by the portions of the cited references upon which the Examiner bases the Examiner's rejection. Moreover, Applicant submits the Examiner's alleged requirements appear to be contradictory, criticizing Applicant for submitting arguments that allegedly "amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims distinguishes them from the references" yet also stating that "The references must be considered as a whole, and not within a vacuum or limited to the portions cited by the

Examiner." Accordingly, Applicant shall address such concerns with respect to individual claims discussed below.

The Examiner has rejected claims 1-17 under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. As to claims 1-17, The Examiner states, "Although claim 1 recites a database and sending email messages to eligible voters, these recitations are deemed to be directed towards insignificant extra-solution activity, as explained above. The steps of providing notification, validating voter identity, receiving voting information, and compiling voting information are not cited as being tied to a particular machine or apparatus." The Examiner continues, "Dependent claims 2-17 merely add further details to the voting result determining process as recited in claim 1 without including any tie to a particular machine or apparatus nor any transformation of subject matter into a different state or thing." The Examiner concludes, "Here, applicant's method steps, fail the first prong since they are not tied to a particular machine or apparatus and can be performed without the use of a particular machine or apparatus. Thus, claims 1-17 are non-statutory."

Applicant has amended claim 1 to recite a "voting server," which Applicant submits clarifies the relationship of the subject matter of claim 1 to a particular machine or apparatus. Applicant submits no new matter has been added. Applicant submits support for the amendment can be found in the specification, for example, at page 12, lines 14-20. Applicant submits claims 2-17 depend, directly or indirectly, from claim 1. Therefore, Applicant submits claims 1-17 are in condition for allowance.

The Examiner has rejected claims 1-3, 5, 7, 9-10, 16, 18,-24, 26-28 and 33 under 35 U.S.C. § 102(b) as allegedly being anticipated by Bayer et al. (U.S. Patent No. 6,311,190). Applicant respectfully disagrees.

As to claim 1, Applicant has amended claim 1 to correct a typographical error introduced with the previous amendment. Applicant submits the amendment is merely cosmetic and does not affect the scope of the claim. Moreover, Applicant submits the Examiner's Response to Arguments concerning claim 1 appear to indicate the Examiner was not confused or distracted by the typographical error. However, the Examiner alleges, in the Examiner's Response to Arguments, "each record of VoteLog table 44 has the following data fields...VoteCookie, a Voting Digital ID generated by the network server 12 used for determining when a voter has worked previously for a survey in a voting

campaign..." and "{each voter is allowed 1 vote per campaign, as evidenced by the VoteCookie ID that checks for previous votes by a voter in a particular voting campaign}," citing "[Column 6, line 66-67, Column 7, line 21-26, Column 10, lines 26-37; Column 19, lines 25-28, Column 22, lines 47-51]." However, Applicant submits such allegations appear to teach away from the subject matter of claim 1. Applicant submits, if, as the Examiner alleges, the prior art teaches "each voter is allowed 1 vote per campaign" and "VoteCookie, a Voting Digital ID generated by the network server 12 [is] used for determining when a voter has worked previously for a survey in a voting campaign," there is no need for, nor teaching of, "an indication of a number of votes for each eligible voter" when a simple determination of "when a voter has worked previously for a survey in a voting campaign" will suffice.

As to claim 1, Applicant submits the cited portions of the cited reference fail to disclose the subject matter of claim 1. As one example, Applicant submits the cited portions of the cited reference fail to disclose "generating a database identifying a plurality of eligible voters, the database including an email address and an indication of a number of votes for each eligible voter." While the Examiner cites "(database 15 stores voting information; Access table 43 records for each voter to the voting site of system 10. The VoteLog table 44 defines a log for each voter with the voting site of system 10; each record of VoteLog table 44 has the following data fields...VoteCookie, a Voting Digital ID generated by the network server 12 used for determining when a voter has worked previously for a survey in a voting campaign; registration campaign includes the E-mail address of the registrant 168; each record of the Users table 186 has the following data fields: E-mail, the E-mail address of a registrant associated with this record){each voter is allowed 1 vote per campaign}." As Applicant argued above, Applicant submits, if, as the Examiner alleges, the prior art teaches "each voter is allowed 1 vote per campaign" and "VoteCookie, a Voting Digital ID generated by the network server 12 [is] used for determining when a voter has worked previously for a survey in a voting campaign," there is no need for, nor teaching of, "an indication of a number of votes for each eligible voter" when a simple determination of "when a voter has worked previously for a survey in a voting campaign" will suffice. Thus, Applicant submits the cited portions of the cited reference fail to disclose each and every element recited in claim 1.

As another example, Applicant submits the cited portions of the cited reference fail to disclose "providing notification of a voting website to a plurality of eligible voters, wherein the notification is

provided via an email message sent to each eligible voter of the plurality of eligible voters, wherein the notification provides the plurality of eligible voters with access to the voting website." While the Examiner cites "(with a hyperlink to the URL) [Column 13, lines 56-58 and Column 18, lines 55-60]," Applicant notes column 18, lines 51-53, of the Bayer reference state, "The computer 18 links to the network server 12 by either a direct connection, indicated by bidirectional arrow 57a, or through an invitation 57b (step 58)." Thus, Applicant submits the cited portions of the cited reference fail to disclose "...via an email message to each eligible voter...," as Bayer instead teaches "...direct connection...or...an invitation...." Applicant also notes column 18, lines 55-61, of the Bayer reference state, "...an invitation 57b may be a hyperlink to a URL of a voting campaign embedded in a page offered by another site to a network client computer 18 or contained in E-mail, otherwise a voter must obtain the URL from either a referral by another person, a new source, or a published or broadcasted solicitation to vote on surveys of a particular voting campaign." Given the teachings of the Bayer reference as to "a hyperlink to a URL of a voting campaign embedded in a page offered by another site to a network client computer 18" and "otherwise a voter must obtain the URL from either a referral by another person, a new source, or a published or broadcasted solicitation to vote on surveys of a particular voting campaign," Applicant submits the cited portions of the cited reference fail to disclose "...via an email message to each eligible voter...."

As another example, Applicant submits the cited portions of the cited reference fail to disclose "for each eligible voter of the plurality of eligible voters that accesses the voting website, validating identity of the eligible voter to produce a validated voter." While the Examiner cites "[Column 14, lines 28-32, 42-46, 58-63, Column 28, lines 13-14; Figure 4]," Applicant submits the cited portions of the cited reference fail to disclose, for example, "...validating the identity of the eligible voter...." Rather, Applicant submits the teachings of the cited portions of the cited reference appear to be self-contradictory. Applicant notes the Examiner cites "column 28, lines 13-14," which states, "The registrant is authenticated if the user name and password entered matches the retrieved nickname and password (step 242)." However, Applicant notes the Examiner also cites "column 14, lines 42-46," which states, "However, at step 74, if a record is found in the VoteLog table and a VoteCookie matches the Voting Digital ID associated with present survey and voting campaign, then the voter has already voted and cannot vote again (step 70)." Thus, Applicant submits the cited portions of the cited references fail to disclose "...validating identity of the eligible voter to produce a validated voter."

Applicant notes the Examiner cites portions of columns 14 and 28 which refer to "network server 12." Applicant notes col. 26, lines 34-36, state "Referring to FIGS. 21-25, a flow chart of the operation and programming of the network server 12 for the registration site when connector to one of the registrant's computer 18, i.e., a network client computer, is shown." Furthermore, as cited by the Examiner, Applicant notes col. 18, lines 55-57, states, "The registration campaign at the registration site operate independently of voting campaigns in system 10...." Thus, Applicant submits the cited portions of the cited reference not only fail to disclose, but also teach away from the claimed invention as set forth in claim 1. Therefore, Applicant submits claim 1 is in condition for allowance.

As to claims 2 and 19, Applicant submits the cited portions of the cited reference fail to disclose the subject matter of claims 2 and 19. As one example, Applicant submits the cited portions of the cited reference fail to disclose "wherein the email message provided to each eligible voter includes a hyperlink to the voting website." While the Examiner cites, "[Column 13, lines 56-58]," Applicant submits, given the teachings of the Bayer reference as to "a hyperlink to a URL of a voting campaign embedded in a page offered by another site to a network client computer 18" and "otherwise a voter must obtain the URL from either a referral by another person, a new source, or a published or broadcasted solicitation to vote on surveys of a particular voting campaign," Applicant submits the cited portions of the cited reference fail to disclose "wherein the email message provided to each eligible voter includes a hyperlink to the voting website." Therefore, Applicant submits claims 2 and 19 are also in condition for allowance.

As to claims 3 and 20, Applicant submits the cited portions of the cited reference fail to disclose the subject matter of claims 3 and 20. As one example, Applicant submits the cited portions of the cited reference fail to disclose "retrieving an email address for the eligible voter from a voter database." While the Examiner cites "(element 15 of Figure 15) [Column 19, lines 24-32]," Applicant notes "[Column 19, lines 24-32]" of the Bayer reference state, "Referring to FIG. 15, an illustration of the elements of a registration campaign 162 is shown. The registration campaign includes a registration questionnaire having several questions 164, the user name and assigned password of the registrant 166, the E-mail address of the registrant 168, and any after registration actions, such as linking the registrant to the sender site, or another desired network site. Multiple records in tables of database 15 store registration information." While the cited portion of the cited reference describes a

"registration campaign" including a "registration questionnaire," Applicant submits the cited portion of the cited reference fails to disclose "retrieving an email address for the eligible voter from a voter database." As another example, Applicant submits the cited portions of the cited reference fail to disclose "generating the email message sent to the eligible voter using the email address retrieved." While the Examiner cites "(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign)," Applicant notes the Examiner does not allege teachings with respect to "...the eligible voter...." Thus, Applicant submits the Examiner has not established a *prima facie* showing of anticipation with respect to the subject matter of claim 3 and 20. Therefore, Applicant submits claims 3 and 20 are also in condition for allowance.

As to claims 5 and 24, Applicant submits the cited portions of the cited reference fail to disclose the subject matter of claims 5 and 24. As one example, Applicant submits the cited portions of the cited reference fail to disclose "sending a consent email message to each potential voter of a plurality of potential voters, wherein the consent email message includes a hyperlink to a consent website." Applicant notes the Examiner alleges teachings in the Bayer reference as to , "sending an email message to potential voters (solicit voters to a particular voting campaign {through invitation 57b} by e-mail with a hyperlink to the URL of a voting campaign)[Column 13, lines 56-58, Column 18, lines 45-60] wherein the email message provided to each eligible voter includes a hyperlink (URL) to the voting website [Column 13, lines 56-58, Column 18, lines 45-63]." However, as the Examiner alleges teachings as to "...to the voting website," not "...to a consent website," Applicant submits the Examiner has not made a *prima facie* showing of anticipation with respect to the subject matter of claims 5 and 24.

As another example, Applicant submits the cited portions of the cited reference fail to disclose, "receiving consent information corresponding to at least a portion of the plurality of potential voters based on responses provided by the at least a portion of the plurality of potential voters via the consent website." While the Examiner cites "[Column 19, lines 24-30]," Applicant notes "[Column 19, lines 24-30]" of the Bayer reference state, "Referring to FIG. 15, an illustration of the elements of a registration campaign 162 is shown. The registration campaign includes a registration questionnaire having several questions 164, the user name and assigned password of the registrant 166, the E-mail address of the registrant 168, and any after registration actions, such as linking the registrant to the

sender site, or another desired network site." While the cited portion of the cited reference describes a "registration campaign" including a "registration questionnaire," Applicant submits the cited portion of the cited reference fails to disclose "receiving consent information corresponding to at least a portion of the plurality of potential voters based on responses provided by the at least a portion of the plurality of potential voters via the consent website."

As yet another example, Applicant submits the cited portions of the cited reference fail to disclose, "determining the plurality of eligible voters from the at least a portion of the plurality of potential voters based on the consent information." While the Examiner cites "[Column 28, lines 13-14]," Applicant notes the Examiner cited "column 28, lines 13-14," which states, "The registrant is authenticated if the user name and password entered matches the retrieved nickname and password (step 242)," with respect to the rejection of claim 1, from which claim 5 depends. As Applicant submitted with respect to claim 1, Applicant submits the teachings of the cited portions of the cited reference appear to be self-contradictory. Again, Applicant notes the Examiner cited, with respect to claim 1, "column 14, lines 42-46," which states, "However, at step 74, if a record is found in the VoteLog table and a VoteCookie matches the Voting Digital ID associated with present survey and voting campaign, then the voter has already voted and cannot vote again (step 70)." Thus, Applicant submits the cited portions of the cited references fail to disclose "determining the plurality of eligible voters from the at least a portion of the plurality of potential voters based on the consent information." Therefore, Applicant submits claims 5 and 24 are in condition for allowance.

As to claims 7 and 26, Applicant submits the cited portions of the cited reference fail to disclose the subject matter of claims 7 and 26. As one example, Applicant submits the cited portions of the cited reference fail to disclose "comparing the password with a stored password corresponding to the user identity to produce a comparison result, wherein when the comparison result is favorable, the eligible voter is validated to produce a validated voter." While the Examiner cites "(step 242)" and "[Column 28, lines 5-25]," Applicant notes the Examiner also cited "Column 28, lines 13-14" and "column 14, lines 42-46" with respect to claim 1. As Applicant noted, Applicant submits the teachings of the cited portions of the cited reference appear to be self-contradictory. Thus, Applicant submits the cited portions of the cited references fail to disclose "...wherein when the comparison result is

favorable, the eligible voter is validated to produce a validated voter." Therefore, Applicant submits claims 7 and 26 are also in condition for allowance.

As to claims 9 and 27, Applicant submits the cited portions of the cited reference fail to disclose the subject matter of claims 9 and 27. As one example, Applicant submits the cited portions of the cited references fail to disclose "detecting an electronic certificate stored on a host device associated with the eligible voter" and "comparing the electronic certificate with a validation certificate stored in a validation database to produce a comparison result, wherein when the comparison result is favorable, the eligible voter is validated to produce a validated voter." While the Examiner cites "(VoteCookie)" as allegedly disclosing "the electronic certificate" and "(VoteLog table)" as allegedly disclosing "a validation certificate," Applicant notes column 14, lines 33-34, states, "...then the network server 12 queries the VoteCookie field in the records of the VoteLog...." However, Applicant sees no teaching in the cited portion of the cited reference as to "VoteCookie" being "stored on a host device associated with the eligible voter. Therefore, Applicant submits claims 9 and 27 are also in condition for allowance.

As to claim 10, Applicant presents arguments for the allowability of the claim from which claim 10 depends. Therefore, Applicant submits claim 10 is also in condition for allowance.

As to claims 16 and 33, Applicant submits the cited portions of the cited reference fail to disclose the subject matter of claims 16 and 33. As one example, Applicant submits the cited portions of the cited reference fail to disclose " The Examiner states, "providing a consent notification (sending an email message) to a potential voter of a plurality of potential voters, wherein the consent notification notifies the potential voter of the consent website (solicit voters to a particular voting campaign {via invitation 57b} by e-mail with a hyperlink to the URL of a voting campaign; embedded hyperlink to a particular URL of an associated registration campaign may be provided) [Column 12, lines 22-24, Column 13, lines 56-58, Column 18, lines 45-63]." The Examiner thus apparently attempts to analogize "the URL of a voting campaign" to "the consent website." The Examiner then states, "receiving consent (registration) information corresponding to at least a portion of the plurality of potential voters based on responses (user name, password and email address) provided by the at least a portion of the plurality of potential voters via the content [sic] (registration) website [Column 19, lines 24-30]." The Examiner thus apparently attempts to analogize "a registration campaign" to

"the consent website." However, Applicant notes col. 18, lines 55-57, states, "The registration campaign at the registration site operate independently of voting campaigns in system 10...." Accordingly, Applicant submits the cited portions of the cited reference teach away from "the URL of a voting campaign" and "a registration campaign" disclosing a "consent website," as the apparently asserted by the Examiner. Thus, Applicant submits the cited portions of the cited reference not only fail to disclose, but also teach away from the claimed invention as set forth in claims 16 and 33. Therefore, Applicant submits claims 16 and 33 are in condition for allowance.

As to claim 18, Applicant submits the cited portions of the cited reference fails to disclose the subject matter of claim 18. As one example, Applicant submits the cited portions of the cited reference fail to disclose "providing notification of a voting website to a plurality of eligible voters, wherein the notification is provided via an email message sent to each eligible voter of the plurality of eligible voters, wherein the notification provides the plurality of eligible voters with access to the voting website." While the Examiner cites "(with a hyperlink to the URL) [Column 13, lines 56-58 and Column 18, lines 55-60]," Applicant notes column 18, lines 51-53, of the Bayer reference state, "The computer 18 links to the network server 12 by either a direct connection, indicated by bidirectional arrow 57a, or through an invitation 57b (step 58)." Thus, Applicant submits the cited portions of the cited reference fail to disclose "...via an email message to each eligible voter...," as Bayer instead teaches "...direct connection...or...an invitation...." Applicant also notes column 18, lines 55-61, of the Bayer reference state, "...an invitation 57b may be a hyperlink to a URL of a voting campaign embedded in a page offered by another site to a network client computer 18 or contained in E-mail, otherwise a voter must obtain the URL from either a referral by another person, a new source, or a published or broadcasted solicitation to vote on surveys of a particular voting campaign." Given the teachings of the Bayer reference as to "a hyperlink to a URL of a voting campaign embedded in a page offered by another site to a network client computer 18" and "otherwise a voter must obtain the URL from either a referral by another person, a new source, or a published or broadcasted solicitation to vote on surveys of a particular voting campaign," Applicant submits the cited portions of the cited reference fail to disclose "...via an email message to each eligible voter...."

As another example, Applicant submits the cited portion of the cited reference fails to disclose, "for each eligible voter of the plurality of eligible voters that accesses the voting website, validating

identity of the eligible voter to produce a validated voter." While the Examiner cites col. 28, lines 13 and 14, particularly step 242, as disclosing such feature, Applicant notes the paragraph including the cited portion begins with "Referring to FIG. 24,...." Applicant notes col. 26, lines 34-36, state "Referring to FIGS. 21-25, a flow chart of the operation and programming of the network server 12 for the registration site when connector to one of the registrant's computer 18, i.e., a network client computer, is shown." Also, as cited by the Examiner, Applicant notes col. 18, lines 55-57, states, "The registration campaign at the registration site operate independently of voting campaigns in system 10...." Thus, Applicant submits the cited portions of the cited reference not only fail to disclose, but also teach away from the claimed invention as set forth in claim 18. Therefore, Applicant submits claim 18 is in condition for allowance.

As to claim 21, Applicant submits the cited portions of the cited reference fail to disclose the subject matter of claim 21. As one example, Applicant submits the cited portions of the cited reference fail to disclose "wherein the voter database is stored in the memory." The Examiner cites column 5, line 12, which states, "...memory 14 storing a database 15...." However, Applicant notes col. 6, lines 66 and 67, state, "Multiple records in tables of database 15 store voting information." Applicant further notes the phrase "voting information" appears in claim 18, but claim 21 does not state, "wherein the voting information is stored in the memory," but rather "wherein the voter database is stored in the memory." Thus, Applicant submits the cited portions of the cited reference not only fail to anticipate but also teach away from the claimed invention as set forth in claim 21. Therefore, Applicant submits claim 21 is in condition for allowance.

As to claim 22, Applicant submits the cited portions of the cited reference fail to disclose the subject matter of claim 22. As one example, Applicant submits the cited portions of the cited reference fail to disclose "wherein the voter database is accessed by the voting management processor over a network." While the Examiner cites "(computer system operating in accordance with software...)" as allegedly teaching "accessed by the voting management processor" and "(network server 12 and network 20...) [Figure 1 and Column 5, lines 13-16, 25-28, 39-40, 42-44, Column 6, lines 11-17]" as allegedly teaching "over a network," Applicant notes the Examiner has alleged "(element 14 of Figure 1)" to be "memory" with respect to base claim 22, wherein the "voting management processor" comprises "memory." However, with respect to claim 22, the Examiner alleges "(database 15)" to be a

"voter database" that "is accessed by the voting management processor over a network." Applicant notes the cited reference states, in col. 5, line 11, "...memory 14 storing a database 15...." Applicant submits, according to the Examiner's interpretation, it would be unnecessary for an alleged "voting management processor" allegedly comprising "memory 14," with "...memory 14 storing a database 15...," to access "database 15" over "network server 12 and network 20," as, according to the Examiner's interpretation, the alleged "voting management processor" would already comprise the alleged "voter database" internally. Moreover, Applicant can find no teaching in the cited portions of the cited reference that would allegedly disclose such functionality. Therefore, Applicant submits claim 22 is in condition for allowance.

As to claim 23, Applicant submits the cited portions of the cited reference fail to disclose the subject matter of claim 23. As one example, Applicant submits the cited portions of the cited reference fail to disclose "wherein the memory stores additional instructions such that the functions performed by the processing module include providing a plurality of hyperlinks on the voting website, wherein a first hyperlink of the plurality of hyperlinks directs an eligible voter to a voting page and a second hyperlink of the plurality of hyperlinks directs the user to documentation related to the voting issue." While the Examiner alleges "the memory stores additional (programmed) instructions" and cites col. 5, lines 42-44, which states, "The network server 12 operates in accordance with software representing programmed instructions...," the Examiner has alleged "memory 14" to be "the memory," and Applicant submits the Examiner has not identified any portion the cited reference that would allegedly teach "software representing programmed instructions" being stored in "memory 14." Therefore, Applicant submits claim 23 is in condition for allowance.

As to claim 28, the Examiner alleges "Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references." Applicant respectfully disagrees. Applicant notes MPEP § 2131 provides:

> "'A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.' *Verdegaal Bros. v. Union Oil Co. Of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)....'The identical invention must be shown in as complete detail as contained in the...claim.' *Richardson v.*

Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim...."

Applicant notes Applicant's previously submitted arguments identified specific features of the claims that Applicant submitted were not found in the cited portions of the cited reference. Thus, Applicant submits the Examiner's rejection failed to comply with MPEP § 2131.

Applicant notes 37 CFR 1.111(b) states as follows:

In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a *bona fide* attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

Applicant notes Applicant's previously submitted arguments cited specific features of the claims which Applicant submitted were not present in the cited portions of the cited reference. Thus, Applicant submits Applicant specifically pointed out how the language of the claims patentably distinguishes them from the references. Therefore, Applicant submits the Examiner's characterization of Applicant's arguments as allegedly failing to comply with 37 CFR 1.111(b) is inaccurate. Accordingly, Applicant respectfully requests reconsideration of Applicant's previously submitted arguments.

Applicant submits the cited portions of the cited reference fail to disclose the subject matter of claim 28. As one example, Applicant submits the cited portions of the cited reference fail to disclose "wherein compiling the voting information further comprises storing the voting information in the memory." Applicant notes the Examiner alleges "(multiple records in tables of database 15 store voting information. The voting information includes records stored in eighteen tables 30-47, as shown in Figures 3A-3R. The VoteLog table 44 defines a log for each voter with the voting site)" to disclose "in the memory." The Examiner cites "[Column 6, line 66 – Column 7, line 24, Column 14, lines 36-50; Figure 3O]" in support of such assertion. However, with respect to base claim 18, the Examiner alleged "memory 14" to be the "the memory." Applicant can find no reference to "memory 14" in col. 6, line 66 – col. 7, line 24, or col. 14, lines 36-50, of the cited reference, as cited by the Examiner, and can find no statement by the Examiner alleging "memory 14" to comprise the "VoteLog table." Thus, Applicant submits the Examiner has failed to show the cited portions of the cited reference teaching the subject matter of claim 28. Therefore, Applicant submits claim 28 is in condition for allowance.

The Examiner has rejected claims 4, 6, 8, 11-15, 17, 25, 29-32, and 34 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Bayer et al. Applicant respectfully disagrees.

As to claim 4, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claim 4. The Examiner states, "Official notice is taken that using hyperlinks to providing additional related documentation is old and well known in the art." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include the step of providing additional related documentation, because doing so enhances the voting campaign sites of Bayer et al. by providing a central repository for voters to obtain information needed to make informed decisions." While the Examiner alleges "...using hyperlinks to providing additional related documentation is old and well known in the art," Applicant notes such allegation is made in the present tense, yet the present application was filed some time ago. Thus, Applicant submits the Examiner's "Official notice" appears not to allege knowledge as of the time of the invention. Moreover, MPEP § 2144.03 states, in part, "It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric

technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. *In re Ahlert*, 424 F.2d at 1091, 165 USPQ at 420-21. See also *In re Grose*, 592 F.2d 1161, 1167-68, 201 USPQ 57, 63 (CCPA 1979)...; *In re Eynde,* 480 F.2d 1364, 1370, 178 USPQ 470, 474 (CCPA 1973) ('[W]e reject the notion that judicial or administrative notice may be taken of the state of the art. The facts constituting the state of the art are normally subject to the possibility of rational disagreement among reasonable men and are not amenable to the taking of such notice.')." Applicant traverses the Examiner's attempt to base rejection of claim 4 on "Official notice." Applicant submits the teaching for which the Examiner purports to rely upon Official Notice is insufficient to render obvious the subject matter recited in claim 4. Thus, Applicant submits the Examiner's attempt to assert "Official notice" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Therefore, Applicant submits claim 4 is in condition for allowance.

As to claims 6, 17, 25, and 34, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claims 6, 17, 25, and 34. As one example, Applicant submits the cited portions of the cited reference fail to teach or suggest "wherein consent information includes consent to vote electronically and consent to receive documentation electronically, wherein at least one hyperlink is provided on the voting website, wherein a first hyperlink directs an eligible voter to a voting page when the eligible voter has consented to vote electronically, and a second hyperlink directs the eligible voter to documentation related to the voting issue when the eligible voter has consented to receive documentation electronically." While the Examiner states, "{Bayer et al. teaches user participation in surveys over a computer-based network; thus, the user registration to participate in said surveys is indicative of the user's consent to receive electronic documentation, such as survey questions}," Applicant submits the Examiner's attempt to allege that "survey questions" disclose "electronic documentation" appears to be inconsistent with "...wherein a first hyperlink directs an eligible voter to a voting page when the eligible voter has consented to vote electronically, and a

second hyperlink directs the eligible voter to documentation related to the voting issue when the eligible voter has consented to receive documentation electronically," as such a configuration would appear to prevent response to the "survey questions." Thus, Applicant submits, consistent with the Examiner's apparent understanding of the teachings of the Bayer reference, such features appears to teach away from the claimed subject matter. Therefore, Applicant submits claims 6, 17, 25, and 34 are in condition for allowance.

As to claim 8, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claim 8. For example, Applicant submits the cited portions of the cited reference fail to teach or suggest "wherein receiving the user identity and the password is performed using a secure data communication protocol." The Examiner states, "Official Notice is taken that the use of secure data communication protocols is old and well known in the arts." Applicant notes such allegation is made in the present tense, yet the present application was filed some time ago. Thus, Applicant submits the Examiner's "Official notice" appears not to allege knowledge as of the time of the invention. The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to use a secure data communication protocol because doing so enhances Bayer et al. by providing secure communications for authentication and encrypting communication in security-sensitive communication such as logons or voting." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claim 8 on purported "common knowledge" or that which the Examiner alleges is "old and well known in the art." Applicant submits the teaching for which the Examiner purports to rely upon Official Notice is insufficient to render obvious the subject matter recited in claim 8. Thus, Applicant submits the Examiner's attempt to assert "Official notice" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Therefore, Applicant submits claim 8 is in condition for allowance.

As to claims 11 and 29, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claims 11 and 29. As one example, Applicant submits the cited portion of the cited reference fails to teach or suggest "wherein compiling the voting information further comprises generating at least one transfer agent email message, wherein the at least one transfer agent email message includes voting information corresponding to at least one eligible voter." As another example, Applicant submits the cited portion of the cited reference fails to teach or suggest "sending the at least one transfer agent email message to a transfer agent, wherein the transfer agent compiles the voting information in the at least one transfer agent email message to produce the voting result." The Examiner states, "Official Notice is taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art. For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claims 11 and 29 on "Official notice" and that which the Examiner asserts is "old and well known in the art." Applicant notes such allegation is made in the present tense, yet the present application was filed some time ago. Thus, Applicant submits the Examiner's "Official notice" appears not to allege knowledge as of the time of the invention. Applicant submits the teaching for which the Examiner purports to rely upon Official Notice is insufficient to render obvious the subject matter recited in claims 11 and 29. Thus, Applicant submits the Examiner's attempt to assert "Official notice" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Therefore, Applicant submits claims 11 and 29 are in condition for allowance.

As to claims 12 and 30, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claim 12 and 30. As one example, Applicant submits the cited portions of the cited reference fail to teach or suggest "wherein the voting information in the at least one transfer agent email message is encrypted prior to sending the at least one transfer agent email message to the transfer agent." The Examiner states, "Official Notice is taken that email encryption is old and well known in the art." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill to modify the teachings of Bayer et al. by including the encryption of email messages, because doing so enhances Bayer et al. by ensuring voter privacy and preventing tampering with election results." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claims 12 and 30 on what the Examiner alleges to be "old and well known in the art." Applicant notes such allegation is made in the present tense, yet the present application was filed some time ago. Thus, Applicant submits the Examiner's "Official notice" appears not to allege knowledge as of the time of the invention. Applicant submits the teaching for which the Examiner purports to rely upon as "old and well known in the art" is insufficient to render obvious the subject matter recited in claims 12 and 30. Thus, Applicant submits the Examiner's attempt to assert such a basis for rejection is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Therefore, Applicant submits claims 12 and 30 are in condition for allowance.

As to claims 13 and 31, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claims 13 and 31. As one example, Applicant submits the cited portions of the cited reference fail to teach or suggest "wherein compiling the voting information further comprises generating and sending a transfer agent email message for each set of voting information received during a predetermined voting time period." While the Examiner alleges teachings as to "generating of email messages (solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign)[Column 18, line 58-60]," Applicant submits the Examiner

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appears not to allege teachings as to "generating and sending a transfer agent email message for each set of voting information received during a predetermined voting time period." Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to the subject matter of claims 13 and 31.

As another example, Applicant submits the cited portions of the cited reference fail to teach or suggest "sending a final email message at the close of the predetermined voting time period, wherein the final email message includes default voting information corresponding to eligible voters that failed to vote using the voting website." The Examiner states, "Official Notice is taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art." The Examiner continues, "For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount." The Examiner states, "Official Notice is taken that absentee ballots are an old and well known mechanism in the voting arts used by registered voters who are unable to vote at an official polling station. For example, postal voting may be used to count the votes cast by registered voters who are unable to vote via a voting website on the Internet." Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include voting information corresponding to eligible voters that failed to vote using the voting website, because doing so expands the ability of Bayer et al. to collect voter feedback by improving voter turnout and increasing the amount of feedback in determining a winner." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claims 13 and 31 on "Official notice" or what the Examiner asserts is "common knowledge" or "old and well known in the art." Applicant notes such allegation is made in the present tense, yet the present application was filed some time ago. Thus, Applicant submits the Examiner's "Official notice" appears not to allege knowledge as of the time of the invention. Applicant submits the teaching for which the Examiner purports to rely upon Official Notice or what the Examiner asserts is "common knowledge" or "old and well known in the art" is insufficient to

render obvious the subject matter recited in claims 13 and 31. Thus, Applicant submits the Examiner's attempt to assert "Official notice" and rely on purported "common knowledge" and what is purportedly "well known in the art" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Therefore, Applicant submits claims 13 and 31 are in condition for allowance.

As to claims 14 and 32, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claims 14 and 32. As one example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein compiling the voting information further comprises transferring contents of the database to the transfer agent." The Examiner states, "Official Notice is taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art." The Examiner continues, "For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount." However, Applicant submits such alleged Official Notice fails to allege teaching as to ""wherein compiling the voting information further comprises transferring contents of the database to the transfer agent." Thus, Applicant submits the Examiner has not made a *prima facie* showing of obviousness with respect to claims 14 and 32.

Moreover, as per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claims 14 and 32 on what the Examiner asserts is "common knowledge" or "old and well known in the art." Applicant notes such allegation is made in the present tense, yet the present application was

filed some time ago. Thus, Applicant submits the Examiner's "Official notice" appears not to allege knowledge as of the time of the invention. Applicant submits the teaching for which the Examiner purports to rely upon what the Examiner asserts is "common knowledge" or "old and well known in the art" is insufficient to render obvious the subject matter recited in claims 14 and 32. Thus, Applicant submits the Examiner's attempt to assert what the Examiner asserts is "common knowledge" or "old and well known in the art" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Therefore, Applicant submits claims 14 and 32 are in condition for allowance.

As to claim 15, Applicant submits the cited portions of the cited reference fail to render obvious the subject matter of claim 15. The Examiner states, "Official Notice is taken that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to use internal networks to provide website access, because doing so limits access to websites of local users of a network (in an internal network), which prevents participation by unauthorized voters from external networks. Similarly, it would have been obvious to one of ordinary skill in the art at the time of invention to use internal networks to provide email to voters located within a local network to limit voter participation to authorized voters, and use external networks to email parties such as transfer agents located outside the internal network, because doing so enhances Bayer et al. by allowing users to provide access to information only to specifically authorized parties located outside the internal network." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claim 15 on what the Examiner asserts is "Official Notice" or "old and well known in the art." Applicant notes such allegation is made in the present tense, yet the present application was filed some time ago. Thus, Applicant submits the Examiner's "Official notice" appears not to allege knowledge as of the time of the invention. Applicant submits the teaching for which the Examiner purports to rely

upon what the Examiner asserts is "Official Notice" or "old and well known in the art" is insufficient to render obvious the subject matter recited in claims 15. Thus, Applicant submits the Examiner's attempt to assert what the Examiner asserts is "Official Notice" or "old and well known in the art" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Therefore, Applicant submits claim 15 is in condition for allowance.

The Examiner has rejected claims 35-39 under 35 U.S.C. §103(a) as allegedly being unpatentable over Bayer et al. (U.S. Patent No. 6,311,190) and further in view of Kilian et al. (U.S. Patent No. 6,092,051). Applicant respectfully disagrees.

As to claim 35, Applicant submits the cited portions of the cited references fail to disclose or render obvious the subject matter of claim 35. As one example, Applicant submits the cited portions of the cited reference fail to disclose "securely transferring the voting result in electronic form to an agent system." The Examiner cites, "(voting using a 'secure untappable channel,' where a message can be sent from a center without being accessed or detected by another party; Each voter submits one of the received votes to the counting center through a secure anonymous channel. Then the counting center tallies the votes; The vote chosen by the vote choosers are transferred anonymously through a secure anonymous channel 18 to a vote counting center 15. The secure anonymous channel can be realized by the mixing centers 14 where encrypted votes are successively processed by the mixing centers until the vote counting center 16 provides as its output a randomly untraceably ordered set of unencrypted votes, and the outcome of the tally; The vote chooser 12 follows the process verification 24 and selection 2, and outputs selected votes from the encrypted votes on the bulletin board. The selected votes of all the vote choosers 12 are anonymously transferred to vote counter 15 through anonymous channel 18)[Column 1, lines 57-62; Column 2, lines 47-49, Column 3, lines 29-42, Column 7, lines 18-21]." Applicant respectfully disagrees. Applicant notes claim 35 recites

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"compiling the voting information from the at least a portion of the validated voters to produce a voting result" as well as "securely transferring the voting result in electronic form to an agent system." Applicant submits the teaching of "The selected votes of all the vote choosers 12 are anonymously transferred to vote counter 15 through anonymous channel 18" alleged by the Examiner as being found in the Kilian reference teaches away from the subject matter of claim 35, as the Examiner alleges teaching as to "...selected votes...are...transferred," while claim 35 recites "...transferring the voting result...."

As another example, Applicant submits the cited portions of the cited reference fail to disclose "sending voting notification email messages to the plurality of eligible voters, wherein the voting notification email messages provide access to a voting website managed by the voting server." While the Examiner cites col. 18, lines 45-60, and col. 13, lines 56-58, of the Bayer reference as allegedly disclosing such feature, Applicant can find no teaching as to network server 12 providing such feature. While the Examiner cites "(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign)[Column 18, lines 45-60]" as allegedly disclosing "sending voting notification email messages to the plurality of eligible voters," Applicant notes the Examiner alleges "(solicit voters...," not "eligible voters." Accordingly, Applicant submits the Examiner has not made a *prima facie* showing of anticipation with respect to claim 35.

Moreover, Applicant notes the Examiner alleges "(voting site 22, registration site 24; in addition to enabling voting on surveys in multiple campaigns at voting site 22, system 10 allows voters, or other registrants, to register under one of multiple registration campaigns through a registration questionnaire at registration site 24)[Column 13, lines 56-58, Column 18, lines 45-60]." Applicant submits none of "voting site 22," "registration site 24," or "system 10," cited by the Examiner appear to be described in the cited portions of the cited reference as a "voting server." Therefore, Applicant submits claim 35 is in condition for allowance.

As to claim 36, Applicant submits the cited portions of the cited references fail to disclose the subject matter of claim 36. As one example, Applicant submits the cited portions of the cited reference fail to disclose "sending consent email messages to the plurality of potential voters." While the Examiner cites col. 18, lines 45-60, as was cited with respect to base claim 35, Applicant can find no teaching as to network server 12 "sending consent email messages to the plurality of potential voters."

While the Examiner cites "(solicit voters to a particular voting campaign by e-mail with a hyperlink to the URL of a voting campaign)," Applicant submits the Examiner alleged with respect to claim 35 that "(registration)" in reference to "[Column 19, lines 24-30]" purportedly discloses "receiving consent information." Thus, Applicant submits the Examiner's allegations with respect to claim 36 to be inconsistent with the Examiner's allegations with respect to claim 35 from which claim 36 depends. Therefore, Applicant submits claim 36 is in condition for allowance.

As to claim 37, Applicant submits the cited portions of the cited references fail to render obvious the subject matter of claim 37. The Examiner states, "...it is old and well known in the art that the role of transfer agents in the election process is to store tallied results, or to tally the votes and determine a winner." The Examiner states, "Official Notice is taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art." The Examiner continues, "For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount." The Examiner also states, "Official Notice is taken that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to use internal networks to provide website access, because doing so limits access to websites of local users of a network (in an internal network), which prevents participation by unauthorized voters from external networks. Similarly, it would have been obvious to one of ordinary skill in the art at the time of invention to use internal networks to provide email to voters located within a local network to limit voter participation to authorized voters, and use external networks to email parties such as transfer agents located outside the internal network, because doing so enhances Bayer et al. by allowing users to provide access to information only to specifically authorized parties located outside the internal network." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claim 37 on what the Examiner asserts is "Official Notice" or "old and well known in the art."

Applicant notes such allegation is made in the present tense, yet the present application was filed some time ago. Thus, Applicant submits the Examiner's "Official notice" appears not to allege knowledge as of the time of the invention. Applicant submits the teaching for which the Examiner purports to rely upon what the Examiner asserts is "Official Notice" or "old and well known in the art" is insufficient to render obvious the subject matter recited in claim 37. Thus, Applicant submits the Examiner's attempt to assert what the Examiner asserts is "Official Notice" or "old and well known in the art" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Therefore, Applicant submits claim 37 is in condition for allowance.

As to claim 38, Applicant submits the cited portions of the cited references fail to render obvious the subject matter of claim 38. The Examiner states, "Official Notice is taken that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to use internal networks to provide website access, because doing so limits access to websites of local users of a network (in an internal network), which prevents participation by unauthorized voters from external networks. Similarly, it would have been obvious to one of ordinary skill in the art at the time of invention to use internal networks to provide email to voters located within a local network to limit voter participation to authorized voters, and use external networks to email parties such as transfer agents located outside the internal network, because doing so enhances Bayer et al. by allowing users to provide access to information only to specifically authorized parties located outside the internal network." The Examiner also states, "Official Notice is taken that email encryption is old and well known in the art." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill to modify the teachings of Bayer et al. by including the encryption of email messages, because doing so enhances Bayer et al. by ensuring voter privacy and preventing tampering with

election results." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claim 38 on what the Examiner asserts is "common knowledge" or "old and well known in the art." Applicant notes such allegation is made in the present tense, yet the present application was filed some time ago. Thus, Applicant submits the Examiner's "Official notice" appears not to allege knowledge as of the time of the invention. Applicant submits the teaching for which the Examiner purports to rely upon what the Examiner asserts is "common knowledge" or "old and well known in the art" is insufficient to render obvious the subject matter recited in claim 38. Thus, Applicant submits the Examiner's attempt to assert what the Examiner asserts is "common knowledge" or "old and well known in the art" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Therefore, Applicant submits claim 38 is in condition for allowance.

As to claim 39, Applicant submits the cited portions of the cited references fail to render obvious the subject matter of claim 14 and 32. The Examiner states, "...it is old and well known in the art that the role of transfer agents in the election process is to store tallied results, or to tally the votes and determine a winner." The Examiner states, "Official Notice is taken that it is old and well known in the computing arts that email and website access may be provided using internal and/or external networks." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to use internal networks to provide website access, because doing so limits access to websites of local users of a network (in an internal network), which prevents participation by unauthorized voters from external networks. Similarly, it would have been obvious to one of ordinary skill in the art at the time of invention to use internal networks to provide email to voters located within a local network to limit voter participation to authorized voters, and use external networks to email parties such as transfer agents located outside the internal network, because doing so enhances Bayer et al. by allowing users to provide access to information only to specifically authorized parties located outside the internal network." The

Examiner also states, "Official Notice is taken that the use of transfer agents to oversee the polling and counting of votes in an election are old and well known in the art." The Examiner continues, "For example, banks and voting officials act as proxies that administer elections, tally votes, and determine winners." The Examiner concludes, "Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify the teachings of Bayer et al. to include emailing messages to transfer agents for compilation and determination of a winner, because doing so enhances Bayer et al. by ensuring accuracy and impartiality and so that received votes can be tallied and verified and a winner can be determined while ensuring that ballots are not tampered with in case of a need of a recount." As per MPEP § 2144.03, Applicant traverses the Examiner's attempt to base rejection of claims 14 and 32 on what the Examiner asserts is "Official Notice" or "old and well known in the art." Applicant notes such allegation is made in the present tense, yet the present application was filed some time ago. Thus, Applicant submits the Examiner's "Official notice" appears not to allege knowledge as of the time of the invention. Applicant submits the teaching for which the Examiner purports to rely upon what the Examiner asserts is "Official Notice" or "old and well known in the art" is insufficient to render obvious the subject matter recited in claims 14 and 32. Thus, Applicant submits the Examiner's attempt to assert what the Examiner asserts is "Official Notice" or "old and well known in the art" is insufficient to establish a *prima facie* showing of obviousness. Applicant respectfully requests, per MPEP § 2144.03, "the examiner...provide documentary evidence in the next Office action if the rejection is to be maintained. See 37 CFR 1.104(c)(2). See also *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697." Moreover, also per MPEP § 2144.03, "If the examiner is relying on personal knowledge to support the finding of what is known in the art, [Applicant respectfully requests] the examiner...provide an affidavit or declaration setting forth specific factual statements and explanation to support the finding. See 37 CFR 1.104(d)(2)." Therefore, Applicant submits claim 39 is in condition for allowance.

In conclusion, Applicant has overcome all of the Office's rejections, and early notice of allowance to this effect is earnestly solicited. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

08/10/2009
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Date

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